

Rancho Dominguez Patio Homes

Post Office Box 2183, Yorba Linda, CA., 92885

DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
WARMINGTON DEVELOPMENT, INC.
ORANGE COUNTY
TRACT NO. 9953

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DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS

WARMINGTON DEVELOPMENT, INC.

ORANGE COUNTY

TRACT NO. 9953

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DECLARATION
OF
COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
RANCHO DOMINGUEZ PATIO HOMES

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this 30th day of January, 1979, by WARMINGTON DEVELOPMENT, INC., a California corporation ("Declarant").

R E C I T A L S:

A. Declarant is the owner of certain real property in the City of Yorba Linda, County of Orange, State of California, described as Lots 1 through 77, inclusive, and the private streets of Tract No. 9953, as per map recorded in Book 418, pages 24, through 26, inclusive, of Miscellaneous Maps, Official Records of Orange County (hereinafter referred to as the "Properties".)

B. Declarant has deemed it desirable to impose a general plan for the improvement and development of the Properties and the adoption and establishment of covenants, conditions and restrictions upon the real property and each and every lot and portion thereof and upon the use, occupancy and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability and attractiveness of the Properties.

C. Declarant has deemed it desirable for the efficient preservation of the value, desirability and attractiveness of the Properties, pursuant to the provisions of this Declaration, to create a corporation to which should be delegated and assigned the powers of maintaining certain common area within the Properties as hereinafter provided, and administering and enforcing

cing these covenants, conditions and restrictions and collecting and disbursing funds pursuant to the assessment and charges hereinafter created and referred to.

D. RANCHO DOMINGUEZ PATIO HOMES COMMUNITY ASSOCIATION, a nonprofit corporation, has been incorporated under the laws of the State of California for the purpose of exercising the powers and functions aforesaid.

E. Declarant will convey title to all of the lots in the Properties subject to certain protective covenants, conditions and restrictions hereinafter set forth.

NOW, THEREFORE, Declarant hereby covenants, agrees and declares that all of the Properties shall be held, sold and conveyed subject to the following covenants, conditions, restrictions and easements which are hereby declared to be for the benefit of the whole tract and all of the Properties and the owners thereof, their successors and assigns. These covenants, conditions, restrictions and easements shall run with the Properties and shall be binding on all parties having or acquiring any right, title or interest in the Properties or any part thereof and shall inure to the benefit of each owner thereof and are imposed upon the Properties and every part thereof as a servitude in favor of each and every parcel thereof as the dominant tenement or tenements.

DEFINITIONS

Section 1. Properties. The term "Properties" as used herein shall mean and refer to that certain real property in the City of Yorba Linda, County of Orange, State of California, described as Lots 1 through 77, inclusive, and the private streets of Tract No. 9953, as per map recorded in Book 418, pages 24 through 26, inclusive, of Miscellaneous Maps, Official Records of Orange County.

Section 2. Lot. The term "lot" as used herein shall mean and refer to any numbered plot of land shown upon any recorded subdivision map of the Properties which has been approved by the County of Orange (with the exception of the public streets or alleys and the Common Area).

Section 3. Common Area. The term "Common Area" as used herein shall mean and refer to those certain private streets, known as Via Santana and Via Nietos, as shown upon the final subdivision map for Tract No. 9953, as per map recorded in Book 418, pages 24 through 26, inclusive of Miscellaneous Maps, Official Records of Orange County, and any other property, including property which may be annexed hereto and all facilities and improvements thereon, if any, owned or leased by the Association or in which the Association has a possessory interest for the common use and enjoyment of the Owners within the Properties. The Common Area shall be conveyed to the Association prior to the conveyance by Declarant of the first lot in the Properties to an Owner. Control of the Common Area shall be turned over to the Association as of the date of transfer of title to the Common Area to the Association.

Section 4. Declaration. The term "covenants" and/or "Declaration" as used herein shall mean and refer collectively to the covenants, conditions, restrictions, reservations, easements, liens and charges imposed by or expressed in this Declaration.

Section 5. Owner. The term "Owner" as used herein shall mean and refer to the record Owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties, including contract purchasers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6. Association. The term "Association" as used herein shall mean and refer to RANCHO DOMINGUEZ PATIO HOMES COMMUNITY ASSOCIATION, a nonprofit corporation, its successors and assigns.

Section 7. Board of Directors. The term "Board of Directors" or "Board" as used herein shall mean and refer to the duly elected Board of Directors of the Association.

Section 8. Declarant. The term the "Declarant" as used herein shall mean and refer to WARMINGTON DEVELOPMENT, INC., its successors and assigns, if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

Section 9. Member. The term "Member" shall mean and refer to those persons entitled to membership in the Association as provided in this Declaration and in the Association Articles of Incorporation and By-Laws.

Section 10. Institutional Holder. The term "Institutional Holder" as used herein shall mean and refer to any holder

(beneficiary) of a deed of trust which encumbers a lot, which holder is a bank or savings and loan association or established mortgage company, or other entity chartered under federal or state laws, any corporation or insurance company, or any federal or state agency.

Section 11. Mortgage. The term "Mortgage" as used herein shall mean and refer to any duly recorded and valid mortgage or deed of trust encumbering a lot.

Section 12. Architectural Committee. The term "Architectural Committee" shall mean the Committee created pursuant by the provisions of this Declaration.

Section 13. Annual Assessment. The term "annual assessment" as used herein shall mean and refer to the amount which is to be paid by each Owner to the Association for common expenses as provided by the terms of this Declaration.

Section 14. Landscaped Slope Control Areas. The term "Landscaped Slope Control Areas" as used herein shall mean and refer to those areas of the lots which are depicted on Exhibit "C" hereto and which shall be maintained by the Association as provided by the terms of this Declaration. The term Landscaped Slope Control Areas shall also include those slope areas within Tract 9955 which are depicted on Exhibit "D" hereto which shall be maintained by the Association upon the annexation of such tract as provided in Article XV of this Declaration.

Section 15. Broadmoor. The term "Broadmoor" as used herein shall mean and refer to Genstar Development, Inc. (Broadmoor Homes Division).

Section 16. Slope Maintenance. The term "slope maintenance" as used herein shall include the watering and weeding of all Landscaped Slope Control Areas within the Properties.

and shall include the restoration of any portion of a Landscaped Slope Control Area affected by installation of walls, fences, swimming pools and the like, and shall also include the repair and restoration of any Landscaped Slope Control Area due to damage of any kind and from any source including,*without limitation, natural causes such as landslides and flooding.

II

NATURE AND PURPOSE OF COVENANTS

The covenants, conditions and restrictions set forth in this Declaration constitute a general scheme for the development, protection and maintenance of the Properties to enhance the value, desirability and attractiveness of the lots for the benefit of all Owners of lots therein. These covenants, conditions and restrictions are imposed upon Declarant and upon the Owners of all lots. Said covenants, conditions and restrictions are for the benefit of all lots, and shall bind the Owners of all such lots. Such covenants, conditions and restrictions shall be a burden upon and a benefit to not only the original Owner of each lot, but also his successors and assigns. All such covenants, conditions and restrictions are intended as and are hereby declared to be covenants running with the land or equitable servitudes upon the land, as the case may be.

GENERAL RESTRICTIONS

Section 1. Single Family Use. Except as provided in Section 10 of Article XVI hereof, no building, structure or improvement shall be constructed, erected, altered, placed or permitted to remain on any of the lots within the Properties other than a residential dwelling and customary appurtenances designed for occupancy by not more than one (1) family. In addition, no building, structure or improvement of any kind shall be constructed, erected, altered, placed or permitted to remain on that portion of the property described in Exhibit "B" hereto until such time as a final subdivision map hereto covering said property has been recorded. Upon such recordation, said portion of the project shall be subject to the provisions of the first sentence of this Section.

Section 2. Nuisance. Neither the Properties, nor any portion thereof, shall be used for any purpose tending to injure the reputation thereof, or to disturb the neighborhood or occupants of adjoining property, or to constitute a nuisance, or in violation of any public law, ordinance or regulation in any way applicable thereto.

Section 3. Commercial Use. None of the lots or any portion of the Properties shall be used or caused to be used or allowed or authorized in any way, directly or indirectly for any business, commercial, manufacturing, mercantile, storing, vending or other such nonresidential purposes.

Section 4. Use of Common Area. The Common Area shall be used for vehicular and pedestrian movement and other purposes authorized under this Declaration.

Section 5. Antennas. No projections of any type which are attached or affixed to any dwelling unit located on a lot or any other building shall be placed or permitted to remain

above the roof of any dwelling unit or any other building with the exception of one or more chimneys and one or more vent stacks. No outside television or radio pole or antenna or other electronic device shall be constructed, erected or maintained on any building or on any part of the Properties or connected in such manner as to be visible from the outside of any such building unless and until the same shall have been approved by the Architectural Committee or the Board.

Section 6. Temporary Buildings. No shed, tent or temporary building shall be erected, maintained or used on any portion of the Properties; provided, however, that temporary buildings for use and used only for purposes incidental to the initial construction of improvements and dwellings on any portion of the Properties may be erected, maintained and used, provided that such erection, maintenance and use has been approved by the Architectural Committee and provided further that said temporary buildings shall be promptly removed upon the completion of such construction work.

Section 7. Garages. When garages are not in use, garage doors shall be closed. Garages shall be used only for the purpose of parking automobiles and other vehicles and equipment and storing an Owner's household goods; provided, however, that all such uses shall be accomplished so that garage doors can be closed. No open carport, if any, shall be used for the storage of any item other than an automobile.

Section 8. Vehicles. No mobile home, boat, truck, motorcycle, trailer, recreational vehicle of any kind or similar equipment shall be kept, stored, parked (other than temporarily), maintained, constructed or repaired, on any portion of the Properties in such a manner as to be visible from any neighboring property; provided, however, that the provisions of this Section shall not apply to emergency vehicle repairs. Temporary parking

shall mean parking of vehicles belonging to guests of Owners, delivery trucks, service vehicles and other commercial vehicles being used in the furnishing of services to the Association or the Owners and parking of vehicles belonging to or being used by Owners for loading or unloading purposes.

Section 9. Privies. No privy shall be erected, maintained or used upon any portion of the Properties, but a temporary privy may be permitted during the course of construction of a building, provided that such erection, maintenance or use has been approved by the Architectural Committee. Any lavatory, toilet or water closet which shall be erected, maintained or used upon any portion of the Properties shall be enclosed and located within a building permitted under this Declaration to be erected within the Properties, shall be properly connected with the sewer system and shall be so constructed and operated that no offensive odor shall arise or otherwise escape therefrom.

Section 10. Animals. No animals, fowl, reptiles, insects or poultry shall be kept within the Properties, except that domestic reptiles, dogs, cats, birds and fish may be kept as household pets upon the Properties, provided that they are not kept, bred or raised thereof for commercial purposes or in unreasonable quantities. All dogs permitted to be kept by this Section shall be kept on a leash within the Properties when not within an enclosed area of a lot.

Section 11. Signs. Except for a sign of customary and reasonable dimensions, the area of which shall not exceed four (4) square feet and advertising a lot for sale, such sign to be located on such lot, no sign or other advertising device of any character shall be erected, maintained, or displayed upon any portion of the Properties; provided, however, that the Declarant, its agents and designees, may erect and maintain such signs and other advertising devices or structures as they may

deem necessary or proper in connection with the conduct of the Declarant's operations for the development, improvement, subdivision and sale of the lots within the Properties.

Section 12. Rubbish. No weeds, rubbish, debris, objects or materials of any kind shall be placed or permitted to accumulate upon any part of the Properties which render such property unsanitary, unsightly, offensive or detrimental to any property in the vicinity thereof or to the occupants of any such property in such vicinity. Trash, garbage, rubbish and other waste shall be kept only in sanitary containers. All service yards or service areas, clothesline areas, sanitary containers and storage piles within the Properties shall be enclosed or fenced in such a manner that such yards, areas, containers and piles will not be visible from any neighboring property or street. Sanitary containers may be set out for a reasonable period of time before and after scheduled trash pick-up times.

Section 13. Plants. No plants or seeds infected with noxious insects or plant diseases shall be brought upon, grown or maintained upon any part of the Properties.

Section 14. Noxious Activity. No noxious or offensive activity shall be carried on upon any property within the Property, nor shall anything be done or maintained thereon which may be or become an annoyance or nuisance to the neighborhood.

Section 15. Window Coverings. All buildings and other structures within the Properties and each portion thereof shall at all times be maintained in good condition and repair and well and properly painted. No windows shall be covered, either inside or outside, with aluminum foil or any other similar material.

Section 16. Slope Areas. No structure, planting or other material shall be placed or permitted to remain or other activities undertaken on any slope area or any other area within

the Properties which might damage or interfere with established slope ratios, create erosion or sliding problems, or interfere with established drainage systems or patterns. Any area drains, gutters, downspouts, berms, swales and other drainage facilities and systems not maintained by the Association shall be maintained by the Owner thereof in a neat, orderly, safe and sanitary condition and in such a manner as to facilitate the orderly discharge of water by means of same.

Section 17. Landscaping. All landscaping of every kind and character, including shrubs, trees, grass and other plantings shall be neatly trimmed, properly cultivated and maintained continuously by the Owner thereof, other than such landscaping, if any, within a lot maintained by the Association, in a neat and orderly condition and in a manner to enhance its appearance.

Section 18. Maintenance of Lots. Each Owner shall maintain, or cause to be maintained, all landscaped slope areas within his lot which are not maintained by the Association or a special assessment district (including any irrigation facilities or systems located thereon) in a neat, orderly, safe and sanitary condition (including the repair and replacement of landscaping and improvements when necessary or appropriate) and in such a manner as to enhance their appearance, maintain and preserve established slope ratios, prevent erosion and sliding problems and to facilitate the orderly discharge of water through established drainage systems and patterns. Any natural slope areas within an Owner's lot shall be maintained additionally in a natural condition and in such a manner as to prevent noxious or dangerous weeds, sagebrush, chaparral or any other brush or weeds from attaining such growth as to become, when dry, a fire menace or public nuisance.

Section 19. Inspection. During reasonable hours and after reasonable notice, the Association, or the Declarant

or any agent thereof, so long as the Declarant is an Owner of at least twenty-five percent (25%) of the lots, shall have the right to enter upon and inspect the Properties or any portion thereof and the improvements thereon for the purpose of ascertaining whether or not the provisions of this Declaration are being complied with and shall not be liable for or deemed guilty of trespass by reason thereof.

Section 20. Liability. Each Member shall be liable to the Association for any damage to the Common Area under the Association's jurisdiction or to any of the equipment or improvements thereon which may be sustained by reason of the negligence or willful misconduct of said Member or of his family, relatives, guests or invitees, both minor and adult.

Section 21. Adjacent Lots. No Owner of any lot ("Adjacent Lot") within the Properties which is adjacent to a structural wall, or portion thereof, of a dwelling unit situated upon an adjoining lot ("Adjoining Lot") shall affix an object or device of any kind to such structural wall, or portion thereof, without the prior written consent of the Owner of such wall. The Owner of the Adjoining Lot shall have the right, at reasonable times, in a reasonable manner, and upon reasonable notice to enter upon the Adjacent Lot for the purpose of maintaining, repairing or restoring said structural wall of his dwelling unit.

Section 22. Drainage Patterns. As used herein, the term "drainage pattern and system" includes, but is not necessarily limited to, underground drain pipes and patterns of drainage over lots and Common Area. The Owner of each lot or Common Area shall have the right to use the established drainage pattern and system for the purpose of draining his lot or Common Area and improvements thereon; provided that such right of drainage shall not include the right to discharge noxious or offensive matter.

Water from any lot or Common Area and the improvements thereon may drain or flow into adjacent streets. Water shall not be allowed to drain or flow on to adjacent lots or Common Area, except to the extent provided for by the established drainage pattern and system. All slopes or terraces on any lot or Common Area shall be maintained as provided herein so as to prevent any erosion thereof upon adjacent streets or adjoining property.

Section 23. Drilling. No part of the Properties shall be used in any manner to explore for or to remove any water, oil or other hydrocarbon minerals of any kind, gravel, earth or any earth substance or any other mineral of any kind. No machinery or equipment of any kind shall be placed, operated or maintained upon any lot, except such machinery or equipment as is usual and customary in connection with the use or maintenance of a private residence.

IV

PROPERTY RIGHTS IN COMMON AREA

Section 1. Owners' Easements of Enjoyment. Every

Owner shall have a non-exclusive right and easement of ingress and egress and of enjoyment in, to and through the Common Area in the Properties; and these easements shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

(a) The right of the Association after notice and hearing to suspend the voting rights and right to use of the recreational privileges within the Common Area by an Owner for any period during which an assessment against such Owner's lot remains unpaid; and for a period not to exceed thirty (30) days after notice and hearing for any infraction of its published rules and regulations;

(b) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the Members. No such dedication or transfer shall be effective unless an instrument has been signed by the Secretary of the Association certifying that such dedication, sale or transfer has been approved by two-thirds (2/3) of the voting power of both classes of members; provided, however, that this right is further limited by the restrictions set forth in the Article hereof entitled "RIGHTS OF LENDERS".

(c) The right of the Association to levy a fine in a reasonable amount or impose other disciplinary action against its Member after notice and hearing for any infraction of its published rules and regulations or for breach of any of the provisions of this Declaration or the Association's By-Laws. The Association may levy a reimbursement assessment pursuant to the terms of this Declaration in order to collect this fine.

Section 2. Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Area to the members of his family, his tenants, or contract purchasers who reside on his lot.

MEMBERSHIP AND VOTING RIGHTS

Section 1. Organization. The Association is organized as a California corporation under the California Nonprofit Corporation Law. The Association is charged with the duties and vested with the powers prescribed by law and set forth in the Articles, By-Laws, and this Declaration. Neither the Articles nor By-Laws shall, for any reason, be amended or otherwise changed so as to be inconsistent with this Declaration. In the event that there should exist any ambiguity in any provision of the Articles or By-Laws, then such provision shall be construed, to the extent possible, so that such provision shall be consistent with the provisions of this Declaration.

Section 2. Membership. Every person or entity who is a record Owner of a fee or undivided fee interest in any lot which is subject by covenants of record to assessment by the Association, shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from the fee ownership of any lot which is subject to assessment by the Association. Ownership of such lot shall be the sole qualification for membership. Transfer of a lot shall automatically transfer membership in the Association.

Section 3. Voting Rights. The Association shall have two (2) classes of voting membership:

Class A. Class A Members shall be all Owners with the exception of Declarant and shall be entitled to one (1) vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be entitled to all rights and privileges of membership. The vote for such lot shall be exercised as its Owners collectively determine, but in no event shall more than one vote be cast with respect to any lot.

Class B. The Class B Member shall be the Declarant and shall be entitled to three (3) votes for each lot owned. The Class B membership shall cease and be converted to Class A Membership on the happening of either of the following events, whichever occurs earlier:

(a) At such time as the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or

(b) On the second anniversary of the date of the original issuance by the California Department of Real Estate of the most-recently-issued final subdivision public report with respect to any portion of the Properties;

(c) On October 1, 1982.

Section 4. Two Classes of Memberships. Notwithstanding anything to the contrary as may be contained elsewhere in this Declaration, any action by the Association which must have the approval of the membership of the Association before being undertaken, except for the action referred to the Article of this Declaration entitled "ENFORCEMENT OF BONDED OBLIGATIONS," shall require the vote or written assent of the required percentage of each class of membership during the period of time that there are two (2) outstanding classes of membership, and any requirement that the vote of the Declarant is to be excluded in any such determination, other than the requirement set forth in the Article hereof entitled "ENFORCEMENT OF BONDED OBLIGATIONS", shall not be applicable.

Section 5. Special Class A Voting Rights. Notwithstanding the provisions of this Article, if the Class A Members do not have sufficient voting power pursuant to the voting rights set forth in this Declaration and the By-Laws to elect at least

one (1) director at any meeting at which directors are to be elected, and at which Class A Members are entitled to vote, then such Class A Members shall, by majority vote, among themselves, elect one (1) director and the remaining vacancies on the Board shall be elected by the Class B Member. In no event shall the Class A Members be entitled to elect more than one (1) director to the Board pursuant to the provisions of this special Class A voting right.

Section 6. Vesting Of Voting Rights. All voting rights which are attributable to a specific lot pursuant to the terms of this Declaration shall not vest until such time as such lot is subject to annual assessments pursuant to the terms of this Declaration.

VI

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Covenant to Pay Assessment. Declarant, on behalf of itself, and for each lot owned within the Properties, hereby covenants, and each Owner of any lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (i) annual or regular assessments or charges, (ii) special assessments for capital improvements, and (iii) reimbursement assessments, all such assessments to be established and collected as hereinafter provided. Each of such assessments, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the person who was the Owner of such lot at the time the assessment fell due. The personal obligation for delinquent assessments shall not pass to such person's successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents of the lots and for the improvement, operation and maintenance of the Common Area and the Landscaped Slope Control Areas and to provide architectural control of the Properties and for the performance of the duties of the Association as set forth in this Declaration.

Section 3. Amount of Annual Assessments. The amount and time of payment of annual assessments against each lot shall be determined by the Board of Directors of the Association giving due consideration to the current maintenance costs and future needs of the Association. The annual assessments and private street assessments against each lot shall not be

increased more than 20% over such assessments for the preceding year against each lot without the vote or written consent of a majority of the total voting power of the Association (excluding the voting power of the Declarant).

Section 4. Special Assessments for Capital Improvement. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement within the Properties; including fixtures and personal property related thereto or any other action or undertaking on behalf of the Association, provided that any such assessment for all lots for the fiscal year in the aggregate in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year shall be approved by the vote or written assent of a majority of the voting power of the Association (but excluding the voting power of the Declarant) at a meeting duly called for this purpose. The foregoing limitation on special assessments shall not apply to any reimbursement assessment which is authorized by the provisions of this Declaration.

Section 5. Reimbursement Assessments. The Association shall levy a reimbursement assessment against any Owner who fails to comply with the provisions of this Declaration, the determinations of the Architectural Committee, the Association's Articles or By-Laws, or any rule or regulation adopted by the Association, if such failure results in the expenditure of monies by the Association in carrying out its functions hereunder or for purposes of collecting any fines which may be levied by the Association. Except for collection of fines, such

assessment shall be for the purpose of reimbursing the Association, shall be limited to the amount so expended, and shall be due and payable to the Association when levied.

Section 6. Notice and Quorum for Meetings Called Under Sections 3 and 4. Written notice of any meeting called to approve an increase in assessments greater than 20% under Section 3 or a special assessment or a private street assessment under Section 4 shall be sent to all Members not less than ten (10) days nor more than sixty (60) days in advance of the meeting. At any such meeting called, the presence of Members or of proxies entitled to cast more than fifty percent (50%) of all of the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same quorum requirement. In connection with the levy of private street assessment under Section 3, only those lots which are subject to such assessment shall be entitled to vote on the question of the levy of such an assessment.

Section 7. Uniform Rate of Assessment. Annual assessments and special assessments must be fixed at a uniform rate for all lots subject to such assessments and may be collected on a monthly basis, unless some other period for collection is adopted by the Board.

Section 8. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all lots within the Properties (including those owned by Declarant) on the first day of the month following the conveyance of the first lot by Declarant to an individual Owner. The annual assessments shall commence as to all lots

within the Properties to be annexed hereto pursuant to the terms of Article XV on the first day of the month following the conveyance of the first lot therein by Declarant to an individual owner. The first annual assessments shall be adjusted according to the number of months remaining in the fiscal year of the Association. The Board of Directors shall fix the amount of the annual assessment against each lot at least sixty (60) days in advance of each fiscal year of the Association. Written notice of the amount of the annual assessments against each lot shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. In the event the Board shall determine at any time that the estimate of the annual assessment for the current fiscal year is, or will become, inadequate to meet the expenses of the Association for any reason, it shall immediately determine the approximate amount of such inadequacy and issue a supplemental estimate of the total Association expenses and determine the revised amount of the annual assessment against each Owner.

Section 9. Certification of Payment. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid. Said signed certificate shall be conclusive evidence as to all third parties relying thereon to show that all assessments acknowledged therein have been paid but shall not relieve any Owner of the responsibility for assessments not in fact paid.

Section 10. Reserves. The annual assessments shall include reasonable amounts as determined by the Board collected as reserves for the future periodic maintenance, repair or replacement of all or a portion of the Common Area, or any other purpose as determined by the Board. All amounts collected as

reserves, whether pursuant to this Section or otherwise, shall be deposited by the Board in a separate bank account to be held in trust for the purposes for which they are collected and are to be segregated from and not commingled with any other funds of the Association. Such reserves shall be deemed a contribution to the capital account of the Association by the Members.

Section 11. Effect of Nonpayment of Assessments; Remedies of the Association. Each Owner of any lot on becoming an Owner of any lot, is and shall be deemed to covenant and agree to pay to the Association each and every of the assessments provided for in this Declaration; and agrees to the enforcement of all such assessments in the manner herein specified. In the event an attorney or attorneys are employed for collection of any assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, each Owner agrees to pay reasonable attorneys' fees and costs thereby incurred in addition to any other amounts due or any other relief or remedy obtained against said Owner. Any assessment not paid within fifteen (15) days after the date on which it becomes due shall thereafter bear interest from the date of delinquency at the rate of ten percent (10%) per annum. In addition to any other remedies herein or by law provided, the Board, or its authorized representative, may enforce the obligations of the Owners to pay the assessments provided for in this Declaration, and each of them, in any manner provided by law or in equity, or without any limitation of the foregoing, by either or both of the following procedures:

(a) Enforcement by Suit. By commencement and maintenance of a suit at law against any Owner or Owners personally obligated to pay assessments for such delinquent

assessments as to which they are personally obligated, such suit to be maintained in the name of the Association. Any judgment rendered in any such action shall include the amount of the delinquency, together with interest thereon as provided for herein, costs of collection, court costs and reasonable attorneys' fees in such amount as the Court may adjudge against the delinquent Owner. Suit to recover a money judgment for unpaid assessments shall be maintainable without foreclosing or waiving the lien hereinafter provided for.

(b) Enforcement by Lien. There is hereby created a claim of lien, with power of sale, on each and every lot to secure payment to the Association of any and all assessments levied against any and all Owners of such lots pursuant to this Declaration, together with interest thereon as provided for in this Declaration, and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorneys' fees. At any time after the occurrence of any delinquency in the payment of any such assessment, the Board or any authorized representative thereof may make a written demand for payment to the delinquent Owner. Said demand shall state the date and amount of the delinquency. Each delinquency shall constitute a separate basis for a demand or claim of lien or a lien, but any number of defaults may be included within a single demand or claim of lien and any demand or claim of lien or lien on account of prior delinquencies shall be deemed to include subsequent delinquencies and amounts due on account thereof. If such delinquency is not paid within ten (10) days after delivery of such demand, the Board or its duly authorized representative may thereafter elect to file and record a claim of lien on behalf of the Association against the lot of the defaulting Owner in the Office of the

County Recorder of Orange County. Such claim of lien shall be executed and acknowledged by any officer of the Association and shall contain substantially the following information:

- (1) The name of the record Owner;
- (2) The legal description of the lot against which claim of lien is made;
- (3) The total amount claimed to be due and owing for the amount of the delinquency, interest thereon, collection costs, and estimated attorneys' fees (with any proper offset allowed);
- (4) That the claim of lien is made by the Association pursuant to this Declaration; and
- (5) That a lien is claimed against said lot in an amount equal to the amount stated, together with all other amounts becoming due from time to time in accordance with this Declaration.

Upon such recordation of a duly executed original or copy of such a claim of lien, the lien claimed therein shall immediately attach and become effective in favor of the Association as a lien upon the lot against which such assessment was levied. Such a lien shall have priority over all liens or claims created subsequent to the recordation of this Declaration, except for tax liens for real property taxes on any lot and assessments on any lot in favor of any municipal or other governmental assessing unit and except for certain Trust Deeds as provided in Section 12 below. Any such lien may be foreclosed by appropriate action in Court or in the manner provided by the California Civil Code for the foreclosure of a deed of trust with power of sale, or in any other manner permitted by law. The Board is hereby authorized to appoint its attorney, any officer or director of the Association, or any Title Company authorized

to do business in California as Trustee for the purpose of conducting such power of sale foreclosure. The lien provided for herein shall be in favor of the Association and shall be for the benefit of all other lot Owners and shall secure payment of all sums set forth in the claim of lien, together with all sums becoming due and payable in accordance with this Declaration after the date of recordation of said claim of lien. The Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any lot. In the event such foreclosure is by action in Court, reasonable attorneys' fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law. Each Owner, by becoming an Owner of a lot, hereby expressly waives any objection to the enforcement and foreclosure of this lien in this manner. Upon the timely curing of any default for which a notice of claim of lien was filed by the Board and the payment of all sums secured by the lien created by the recordation of such claim of lien, the Board shall cause an officer of the Association to file and record an appropriate release of such claim of lien in the Office of the County Recorder of Orange County, California. No Owner may waive or otherwise escape liability for the assessments provided for in this Declaration by non-use or abandonment of his lot. Notwithstanding anything contained in this Declaration to the contrary, no action may be brought to foreclose the lien created by recordation of a claim of lien, whether judicially, by power of sale, or otherwise, until the expiration of ten (10) days after a copy of said claim of lien, showing the date of recordation thereof has been mailed to the Owner of the lot which is described in such claim of lien.

Section 12. Subordination to Certain Trust Deeds.

The lien for the assessments provided for herein in connection with a given lot shall not be subordinate to the lien of any deed of trust or mortgage, except the lien of a deed of trust or mortgage, or contract of sale given and made in good faith and for value that is of record as an encumbrance against such given lot prior to the recordation of a claim of lien for the assessments provided for in this Declaration against such given lot (such deed of trust or mortgage being hereinafter referred to as a "prior deed of trust"). The sale or transfer of any lot shall not affect any assessment lien created pursuant to the term of this Declaration to secure assessments becoming due whether prior to, on, or after the date of such sale or transfer, nor shall such sale or transfer diminish or defeat the personal obligation of any Owner for delinquent assessments as provided for by Section 1 of this Article; provided, however, that the sale or transfer of any lot pursuant to a judicial foreclosure or foreclosure by power of sale of a prior deed of trust, or proceeding in lieu of foreclosure of a prior deed of trust, shall extinguish any assessment lien which has attached and become effective with regard to the lot being so transferred prior to the time of such sale or transfer, and shall prohibit the recordation of any assessment lien against such lot on account of assessments which became due prior to the date of such sale or transfer; provided, however, that there shall be a lien on the interests of the purchaser at such sale which shall attach, be created and become effective and be foreclosed in accordance with this Declaration and which shall secure all assessments becoming due after the date of any such sale or transfer. For the purpose of this Section 12, a sale or transfer of a lot shall occur on the date of recordation of a deed or

other instrument of title evidencing the conveyance of record title to the lot.

Section 13. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein: All properties dedicated to and accepted by any local public authority and the Common Area.

VII

DUTIES AND POWERS OF THE ASSOCIATION

Section 1. General Powers of the Association. All

powers relating to the management, operation and maintenance of the Common Area, the Landscaped Slope Control Areas, as well as certain rights, duties and powers relating to the lots, as hereinafter set forth, shall be vested in the Association and in its Board of Directors. The specific and primary purposes and powers of the Association and its Board of Directors are to provide for the operation, control and maintenance of the Common Area, the maintenance, repair and restoration of the Landscaped Slope Control Areas, provide architectural control of the Properties, provide recreational activities for the Members, and to enforce the provisions of this Declaration and the Association's Articles and By-Laws, and any other instruments relating to the management and control of the Association and the Properties. The Association may do any and all other acts and things that a nonprofit corporation is empowered to do, which may be necessary, convenient or desirable in the administration of its affairs for the specific and primary purposes of meeting its duties as set forth in this Declaration. The Association, through its Board of Directors, shall have the authority to delegate its powers to committees, officers of the Association or its employees.

Section 2. Contracts of the Association. The

Association shall have the right and power to employ or engage a manager and other employees or agents and contract for such services, labor and materials as it may deem reasonable or necessary to operate and maintain the Properties and the Common Area, and the improvements thereon and to discharge its other duties as herein provided. The Board of Directors shall

not enter into any contracts for goods or services with a duration greater than one (1) year without the vote or written consent of a majority of the voting power of the Association residing in Members other than Declarant with the following exceptions: (i) a management contract, the terms of which have been approved by the Federal Housing Administration or Veterans Administration; (ii) a contract with a public utility company if the rates charges for the materials or services are regulated by the Public Utilities Commission; provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate; or (iii) prepaid casualty and/or liability insurance policies of not to exceed three (3) years duration, provided that the policy permits for short rate cancellation by the insured. Any agreement for professional management of the Association or for services of the Declarant must provide that the management contract may be terminated without cause or payment of a termination fee upon ninety (90) days written notice and the term of such contract shall not exceed one (1) year.

Section 3. General Duties of Association. In addition to the duties and powers enumerated in its Articles of Incorporation and By-Laws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall:

(a) Own and maintain all private streets within the Properties in compliance with all applicable requirements of the ordinances of the City of Yorba Linda. The responsibility of the Association to maintain the Common Area shall commence on the first of the month following the close of escrow representing the conveyance of the first lot by Declarant to an Owner;

(b) Maintain, or cause to be maintained, substantially as originally improved by the Declarant or as may be further improved or modified with the consent of the Architectural Committee and the Board, the Landscaped Slope Control Areas more particularly described in Exhibit "D" attached hereto and incorporated herein by this reference, and all landscaping and improvements therein (including drainage or irrigation facilities and systems), in a neat, safe, sanitary and orderly condition (including the repair and replacement of landscaping and improvements when necessary or appropriate), and in such a manner as to enhance their appearance and to preserve established slope ratios, prevent erosion and sliding problems, and facilitate the orderly discharge of water through established drainage systems; provided, however, the Association's obligations under this subsection (b) shall cease and terminate with respect to any lots within the Properties on the date that the City of Yorba Linda or any other governmental agency commences to maintain the Landscaped Slope Control Areas on said lots. The Association shall also repair and restore the Common Area and the Landscaped Slope Control Areas due to damage of any kind and from any source including, without limitation, natural causes such as landslides and flooding. The responsibility of the Association for the Slope Maintenance of the Landscaped Slope Control Areas shall commence on the first of the month following the close of escrow representing the conveyance of the first lot by Declarant to an Owner. The responsibility of the Association for Slope Maintenance of the Landscaped Slope Control Areas within any phase to be annexed hereto shall commence on the first of the month following the close of escrow representing the conveyance of the first lot by Declarant to an Owner.

(c) Maintain such policy or policies of insurance as the Board deems necessary or desirable in furthering the purposes of and protecting the interests of the Association and its Members including, but not limited to, hazard and liability insurance, plate glass insurance, fidelity bonds, workmen's compensation and officers' and directors' liability insurance. The Association shall be required to maintain fire and extended coverage insurance on insurable Common Area improvements on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement costs);

(d) Have the authority to obtain for the benefit of the Common Area, all utility services;

(e) Maintain all drainage facilities and easements owned by the Association, if any;

(f) Pay taxes and assessments which are or could become a lien on the Common Area, if any, or some portion thereof;

(g) Prepare budgets and financial statements for the Association and its Members as prescribed in the By-Laws of the Association;

(h) Initiate and execute disciplinary proceedings against Members of the Association for violations of provisions of this Declaration or the Association's Articles of Incorporation or By-Laws in accordance with the procedures set forth in this Declaration.

Section 4. Maintenance Areas and Owner Maintenance Limitations.

(a) To the extent not covered by insurance carried by the Association, the cost of any Landscaped Slope Control Areas maintenance services required to be performed

by the Association in accordance with Section 3(b) hereinabove within the Properties which are caused by earthquake, fire, acts of God, riot, civil insurrection or by any other cause, except ordinary wear, tear, deterioration or the negligence or willful misconduct of the Association in the performance or nonperformance of its duties under this Declaration, shall be borne by the Owner for whose benefit the maintenance services were performed;

(b) The cost of any Landscaped Slope Control Areas maintenance services required to be performed by the Association in accordance with Section 3(b) hereinabove within the Properties which are caused by the negligence or willful misconduct of any Owner, or his family, relatives, guests or invitees, both minor and adult, shall be borne entirely by such Owner;

(c) No Owner shall provide or cause to be provided any of the maintenance services required to be performed by the Association in accordance with Section 3(b) hereinabove unless the Board approves the Owner's performance of such services;

(d) Any of the costs required to be paid by an Owner hereunder, if not timely paid, shall be a Reimbursement Assessment;

(e) No trees, shrubs, plants or other landscaping shall be installed by any Owner upon any Landscaped Slope Control Areas without the prior written consent of the Architectural Committee and the Board. Any such approved trees, shrubs, plants, or other landscaping shall be maintained by the Owner thereof at his own cost and expense entirely in a neat, safe, sanitary and orderly condition and in such a manner as to enhance their appearance and to preserve established slope ratios, prevent erosion and sliding problems, and facilitate

the orderly discharge of water through established drainage systems and patterns; provided, however, upon approval of the Board, such maintenance and/or the cost and expense thereof may be assumed by the Association upon such reasonable terms and conditions as the Board may determine.

Section 5. Restrictions on Power of the Board. The Association shall be prohibited without the prior vote or written assent of a majority of the voting power of the Association (excluding the voting power of the Declarant) from doing either of the following: (i) incurring aggregate expenditures for capital improvements to any portion of the Properties in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year; or (ii) selling during any fiscal year of the Association property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for the fiscal year; and (iii) paying compensation to members of the Board or to officers of the Association for services performed in the conduct of the Association's business; provided, however, that the Board may cause a member or officer to be reimbursed for expenses incurred in carrying on the business of the Association.

Section 6. Adoption of Rules. The Association shall adopt reasonable rules relating to the use and operation of the Common Areas and any improvements thereon. A copy of such rules and of all amendments thereto shall be mailed to each Owner of a lot, and a copy shall be posted in one or more places within the Common Area where the same may be conveniently inspected.

Section 7. Entry Onto Lots. The Association and its representatives shall have the right to enter upon any lot within the Properties to the extent such entry is necessary in connection with the performance by the Association of its duties

and responsibilities under this Article or under this Declaration, including, without limitation, the construction, maintenance or effectuation of emergency repairs for the benefit of the lots, the Common Areas, the Landscaped Slope Control Areas, or for any of the Owners within the Properties.

VIII

INSURANCE

Section 1. Types. The Association, to the extent available, shall obtain and continue in effect in its own name the following types of insurance:

(a) A comprehensive policy of public liability insurance covering the Common Area with a limit of not less than One Million Dollars (\$1,000,000.00) for claims for personal injury and/or property damage arising out of a single occurrence, such coverage to include protection against such risks as shall customarily be covered or available with respect to planned unit developments and shall contain an endorsement which shall preclude the insurer from denying the claim of an Owner because of negligent acts or omissions of the Association or other Owners;

(b) A policy of fire and casualty insurance with extended coverage for the full replacement value of the Common Area improvements, without deduction for depreciation, and clauses waiving subrogation against Owners and the Association and persons upon the Properties with the permission of an Owner, such insurance to afford protection against loss or damage by fire and other hazards covered by the standard extended coverage policy of hazard insurance;

(c) Fidelity coverage against dishonest acts on the part of directors, officers, employees or volunteers who handle or who are responsible to handle the funds of the Association, and such fidelity bonds shall name the Association as obligee, shall be written in an amount equal to one hundred fifty percent (150%) of the estimated annual operating expenses of the Association, including reserves.

Section 2. Waiver by Members. As to each of said policies which will not be voided or impaired thereby, the

Members hereby waive and release all claims against the Association, the Board, the Declarant and agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence of or breach of any agreement by said persons, but to the extent of insurance proceeds received in compensation for such loss only.

Section 3. Other Insurance; Annual Review. The Association may purchase such other insurance as it may deem necessary, including, but not limited to, plate-glass insurance, workmen's compensation, officers' and directors' liability, errors and omission insurance and blanket policies of hazard insurance for the lots. The Board shall annually determine whether the amounts and types of insurance it has obtained provide adequate coverage for the Association in light of inflation, practice in the area in which the Properties are located, or any other factor which tends to indicate that either additional insurance policies or increased coverage under existing policies are necessary or desirable to protect the interests of the Association. If the Board determines that increased coverage or additional insurance is appropriate, it shall obtain the same.

Section 4. Premiums and Proceeds. Insurance premiums for any such blanket insurance coverage obtained by the Association and any other insurance deemed necessary by the Association shall be an expense to be included in the annual assessments levied by the Association. The Association is hereby granted the authority to negotiate loss settlements with the appropriate insurance carriers. Any two (2) directors of the Association may sign a loss claim form and release form in connection with the settlement of a loss claim, and such signatures shall be binding on the Association and the Members.

Section 5. Payment of Taxes or Premiums by Institutional Holders of Mortgages. Institutional Holders of Mortgages may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area, unless such taxes or charges are separately assessed against the Owners, in which case the rights of Institutional Holders of Mortgages shall be governed by the provisions of their Mortgages. Institutional Holders of Mortgages may, jointly or singly, also pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Area and the Institutional Holder of a Mortgage making such payments shall be owed immediate reimbursement therefor from the Association.

IX

DAMAGE AND DESTRUCTION AFFECTING COMMON AREA

Section 1. Consent of Owners to Rebuild. If all or any portion of the Common Area is damaged or destroyed by fire, or other casualty, then neither the Board, the Association, or any agent or employee thereof shall be required or permitted to take any action to repair or rebuild the damaged portions, or to cause the damaged portions to be repaired or rebuilt without the written consent of at least fifty-one percent (51%) of the Members of each class as to the manner of repair or reconstruction and the payment therefor, except as provided in Section 2 of this Article in the event adequate insurance proceeds are available as set forth therein.

Section 2. No Consent Required With Adequate Insurance. Notwithstanding anything contained in Section 1 above to the contrary, if the cost of repairing or rebuilding the portion of the Common Area so damaged or destroyed does not exceed the amount of insurance proceeds available to the Association, the Board shall be authorized and required without the consent or approval of the Members, to contract to repair or rebuild the damaged portions of the Common Area substantially in accordance with the original plans and specifications therefor. In the event any excess insurance proceeds remain, or in the event of a decision by the Association not to reconstruct or replace such damages or destroyed improvements, the Board, in its sole discretion, may retain such sums in the general funds of the Association or distribute pro rata all or a portion thereof to the Owners, subject to the prior rights of Institutional Holders of any first Mortgage whose interest may be protected by insurance policies carried by the Association. The rights of an Owner and the Institutional Holder of a first Mortgage on his lot as to such pro rata dis-

tribution shall be governed by the provisions of the Mortgage encumbering such lot. Only these Owners whose lots are subject to private street assessments shall be entitled to share in the distribution of such proceeds.

EMINENT DOMAIN

The term "taking" as used in this Article shall mean condemnation by eminent domain or sale under threat of condemnation. In the event of a threatened taking of all or any portion of the Common Area or the improvements thereon, the Owners hereby appoint the Board and such persons as the Board may delegate to represent all of the Owners in connection with the taking. The Board shall act in its sole discretion with respect to any awards being made in connection with the taking and shall be entitled to make a voluntary sale to the condemnor in lieu of engaging in a condemnation action. Any awards received on account of the taking shall be paid to the Association. In the event of a taking of less than all of the Common Area, the rules as to restoration and replacement of the Common Area and the improvements thereon shall apply as in the case of destruction of improvements upon the Common Area. In the event of a total taking, the Board may in its sole discretion retain any award in the general funds of the Association or distribute pro rata all or a portion thereof to the Owners. The rights of an Owner and the Institutional Holder of a Mortgage on his lot as to such pro rata distribution shall be governed by the provisions of the Mortgage encumbering such lot.

XI

EASEMENTS

Section 1. Owners' Rights and Duties: Utilities.

The rights and duties of the Owners of lots within the Properties with respect to sanitary sewer and water, electricity, gas and telephone and cable television lines and drainage facilities shall be governed by the following:

(a) Wherever sanitary sewer house connections and/or water house connections or electricity, gas, or telephone and cable television lines or drainage facilities are installed within the Properties, which connections, lines or facilities, or any portion thereof, lie in or upon lots owned by persons other than the Owner of a lot served by said connections, the Owners of any lots served by said connections, lines or facilities shall have the right, and are hereby granted an easement to the full extent necessary therefor, to enter upon the lots or to have utility companies enter upon the lots within the Properties in or upon which said connection, lines or facilities, or any portion thereof, lie, to repair, replace and generally maintain said connections as and when the same may be necessary as set forth below;

(b) Wherever sanitary sewer house connections and/or water house connections or electricity, gas or telephone or cable television lines or drainage facilities are installed within the Properties, which connections serve more than one lot, the Owner of each lot served by said connections shall be entitled to the full use and enjoyment of such portions of said connections as service his lot;

(c) In the event of a dispute between Owners with respect to the repair or rebuilding of said connections, or with respect to the sharing of the cost thereof, then upon written request of one of such Owners addressed to the Asso-

ciation, the matter shall be submitted to the Board of Directors who shall decide and make an assessment against any or all of the Owners involved, which assessment shall be collected and enforced in the manner provided by this Declaration.

Section 2. Utilities. Easements over the lots for the installation and maintenance of electric, telephone, cable television, water, gas and sanitary sewer lines and drainage facilities are hereby granted by the Declarant for the benefit of the Association and the Owners of the lots within the Properties.

Section 3. Party Walls and Fences. Those Owners who have a common wall or fence adjoining their lots and such a wall or fence dividing the lots upon which their homes are constructed, shall equally have the right to the use of such wall or fence except that each shall have the exclusive right to the use of the interior surface of the wall or fence on his side. Neither Owner shall use any portion of the wall or fence so as to interfere with the use and enjoyment of the other Owner. In the event that any portion of such wall or fence, except the interior surface of one side, is damaged or injured from any cause, other than the act or negligence of either party, it shall be repaired or rebuilt at their joint expense.

Section 4. Common Area Easements. The Association shall own the Common Area for the use, enjoyment and convenience of the Owners. Each lot within the Properties subject to this Declaration is hereby declared to have an easement over all of the Common Area, for the benefit of the lots, the Owners of the lots, and each of them, and for their respective families, guests, invitees, tenants and contract purchasers, for all of the purposes and uses hereinabove set forth, and without limiting the generality of the foregoing, for ingress and egress over and through the Common Area.

Section 5. Sideyard Easements. There is hereby created sideyard easements as shown on Exhibit "A" which easements shall be appurtenant to the lots described on said Exhibit as "Dominant Tenement", and which easements shall burden the lots described on said Exhibit as "Servient Tenement". Such easements shall be as follows:

(a) In favor of the Dominant Tenement over the Servient Tenement for the purpose of accommodating the natural settlement of structures; and

(b) Over the portion of the Servient Tenement depicted on Exhibit "A" attached hereto for the purposes of landscaping, fencing, drainage, the establishment of a general recreation or garden area and purposes related thereto subject to the following provisions.

(i) The owner of the Servient Tenement shall have the right at all reasonable times to enter upon the easement area, including the right to cross over the Dominant Tenement for such entry, in order to perform work related to the use and maintenance of the Servient Tenement; and

(ii) The Servient Tenement shall have the right of drainage over, across and upon the easement area for water drainage from structure upon the Servient Tenement, or for drainage into and through the subsurface drainage facilities located within the easement area, the right to maintain eaves and appurtenances thereto and the portions of any structure upon the Servient Tenement; and

(iii) The owner of the Dominant Tenement shall have the right to construct fencing across the easement area, provided that the Owner of the Dominant Tenement shall not attach any object or structure to a wall or dwelling belonging to the Servient Tenement or disturb the grading of

the easement area or otherwise act with respect to the easement area in any manner which would damage the Servient Tenement; and

(iv) In exercising the right of entry upon the easement area as provided for above, the owner of the Servient Tenement agrees to utilize reasonable care not to damage any landscaping or other items existing in the easement area; provided, however, the owner of the Servient Tenement shall not be responsible for damage to such landscaping or other items to the extent such damage could not be reasonably avoided in connection with such entry upon the easement area for authorized purposes.

Section 6. Reserved Easement Over Common Area.

There is hereby reserved by the Declarant, including, without limitation, its sales agents and representatives and prospective purchasers of lots, together with the right in the Declarant to grant and transfer the same, over the Common Area as the same may from time to time exist, easements for construction, display, sales offices and incidental parking and exhibit purposes in connection with the construction, development and sale of dwelling units and lots within the Properties and for such other purposes and subject to such limitations as may be provided in Section 10 of Article XVI; provided, however, that such use by the Declarant and others shall not unreasonably interfere with the reasonable use and enjoyment of the Common Area by the Members.

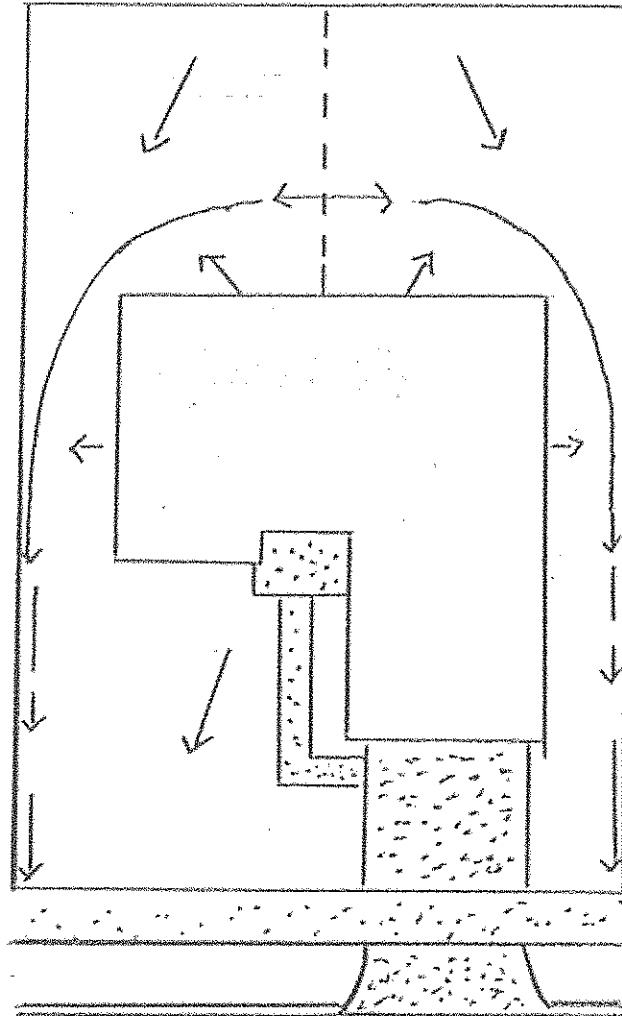
Section 7. Creation of Easements. Each of the easements provided for in this Declaration shall be deemed to be established upon the recordation of this Declaration, and shall thenceforth be deemed to be covenants running with the land for the use and benefit of the lots superior to all other encumbrances

applied against or in favor of any portion of the Properties which is the subject of this Declaration. In furtherance of the easements provided for in this Declaration the individual grant deeds to lots may, but shall not be required to, set forth said easements.

TYPICAL LOT DRAINAGE

TRACT _____

LOT _____



← Typical Drainage Direction to Low Points of Lot →

Your lot is graded for proper drainage as required by the Local Building Department. Your house floor is approximately 8" above finish grade, which must be maintained for adequate protection. The grade of your lot should be away from the perimeter of your house at all times. This finish grade plan is typical of the grading of most lots and should not be changed. Warmington Development cannot be responsible for consequences arising from changing the grade.

Copy Received By:

Homeowner

Date

XII

ARCHITECTURAL AND LANDSCAPING CONTROL

Section 1. Architectural Approval. No fence, wall, building, sign or other structure (including basketball standards), or exterior addition to or change or alteration thereof (including painting) or landscaping, shall be commenced, constructed, erected, placed, altered, maintained or permitted to remain on the Properties or any portion thereof, until plans and specifications shall have been submitted to and approved in writing by an architectural committee, initially to be appointed by the Declarant (the "Architectural Committee"). Said plans and specifications shall be prepared by a duly licensed architect or other person approved by the Architectural Committee and shall include, where appropriate, the following: (a) plot plans, showing the location of all structures and showing grade elevations and drainage; (b) building plans, including floor, foundation and roof plans, with all materials therefor; (c) exterior elevations, surfaces, and sections, structural design and salient exterior details; (d) general exterior color schemes; and (e) landscaping plans, showing type, location and elevation of trees, bushes, shrubs, plants, hedges and fences. All such plans and specifications shall be submitted in writing over the signature of the owner of the property or such Owner's authorized agent. *He* Approval shall be based, among other things, on adequacy of site dimensions; adequacy of structural design and material; conformity and harmony of external design with neighboring structures; effect of location and use of improvements and landscaping on neighboring property, improvements, landscaping, operations and uses; relation of topography, grade and finished ground elevation of the property being improved to that of neighboring property; proper facing of main elevations with respect to nearby streets, preservation of view and aesthetic beauty with respect to fences, walls and landscaping; assurance of adequate access to the Association in connection with

the performance of its duties and the exercise of its powers hereunder; conformity with such rules and regulations as may be adopted by the Architectural Committee in accordance with this Article; and conformity of the plans and specifications to the purpose and general plan and intent of this Declaration. In any event, the Architectural Committee shall have the right, but not the obligation, to require any Member to remove, trim, top, or prune any shrub, tree, bush, plant or hedge which such Committee reasonably believes materially obstructs the view of any lot. The Declarant shall not be required to comply with any of the provisions of this Section 1; provided, however, that any such non-compliance shall be first approved in writing by Broadmoor.

Section 2. Number of Members and Term of the Architectural Committee Appointed by Declarant. The Architectural Committee shall consist of not less than three nor more than five members. The Declarant shall have the right to appoint all of the members of the Architectural Committee and their replacements until the first anniversary of the issuance by the California Department of Real Estate of the original public report for the Properties (the "Anniversary Date"). After the Anniversary Date, the Declarant shall have the right to appoint a majority of the members of such Committee and their replacements until ninety percent (90%) or more of the lots within the Properties have been sold, or until the fifth anniversary of the date of original issuance by the California Department of Real Estate of the final subdivision public report for the Properties (the "Fifth Anniversary Date"), whichever shall first occur. After the Anniversary Date, the Board shall appoint all of the members of the Architectural Committee not appointed by the Declarant. After ninety percent (90%) or more of the lots within the Properties have been sold or after the Fifth Anniversary Date, whichever

shall first occur, the Board shall appoint all of the members of the Architectural Committee. Those appointed to the Architectural Committee by the Board shall be Members; the Declarant, however, need not appoint Members to the Architectural Committee. Those members of the Architectural Committee appointed by the Board may be dismissed and replaced at any time and from time to time as determined by the Board in its sole and absolute discretion.

Section 3. Failure to Approve or Disapprove Plans and Specifications and Appeal. In the event the Architectural Committee, or its representatives designated in accordance with Section 8 hereinbelow, fails to either approve or disapprove such plans and specifications within thirty (30) days after the same have been submitted to it, it shall be conclusively presumed that the Architectural Committee has approved such plans and specifications. All improvement work approved by the Architectural Committee shall be diligently completed and constructed in accordance with approved plans and specifications. In the event plans and specifications submitted to the Architectural Committee are disapproved thereby, the party or parties making such submission may appeal in writing to the Board. The written request must be received by the Board not more than thirty (30) days following the final decision of the Architectural Committee. The Board shall submit such request to the appropriate Architectural Committee for review, whose written recommendations will be submitted to the Board. Within forty-five (45) days following receipt of the request for appeal, the Board shall render its written decision. The failure of the Board to render a decision within said forty-five (45) day period shall be deemed a decision in favor of the appellant.

Section 4. No Liability. Neither the Declarant, the Association, the Architectural Committee, or the members or designated representatives thereof shall be liable in damages to anyone submitting plans or specifications to them for approval, or to any owner of property affected by this Declaration by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications, or for any defect in any structure constructed from such plans and specifications. Such plans and specifications are not approved for engineering design. Every person who submits plans or specifications to the Architectural Committee for approval agrees, by submission of such plans and specifications, and every owner of any of said property agrees that he will not bring any action or suit against the Declarant, the Association, the Architectural Committee, or any of the members or designated representatives thereof to recover any such damages.

Section 5. Notice of Noncompliance or Noncompletion. Notwithstanding anything to the contrary contained herein, after the expiration of (a) one (1) year from the date of issuance of a building permit by any municipal or other governmental authority for any improvements or (b) one (1) year from the date of the commencement of construction within the Properties of any improvements, said improvements shall, in favor of purchasers and encumbrancers in good faith and for value, be deemed to be in compliance with all provisions of this Article XII, unless actual notice of such noncompliance or noncompletion, executed by the Architectural Committee or its designated representatives, shall appear of record in the office of the County Recorder of Orange County, California, or unless legal proceedings shall have been instituted to enforce compliance or completion.

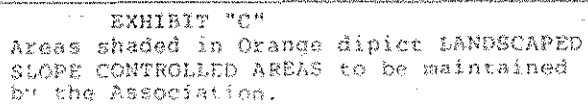
Section 6. Rules and Regulations. The Architectural Committee may, from time to time, in its sole discretion, adopt, amend and repeal reasonable rules and regulations interpreting and implementing the provisions hereof and establishing reasonable architectural standards for the Properties.

Section 7. Variances. Where circumstances such as topography, location of property lines, location of trees, configuration of lots, or other matters require, the Architectural Committee, by the vote or written consent of a majority of the members thereof, may allow reasonable variances as to any of the covenants, conditions or restrictions contained in this Declaration under the jurisdiction of such Committee, on such terms and conditions as it shall require; provided, however, that all such variances shall be in keeping with the general plan for the improvement and development of the Properties.

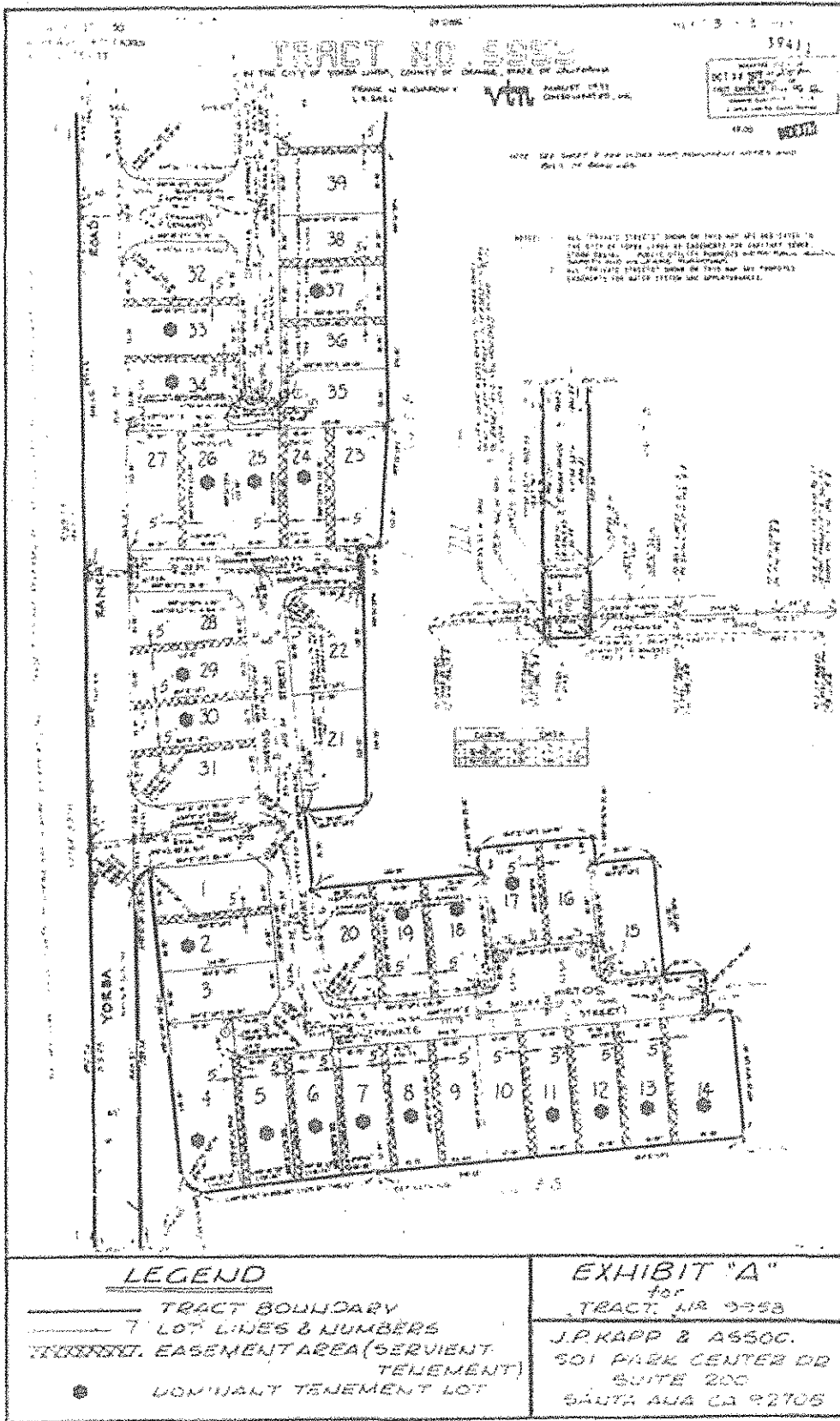
Section 8. Appointment and Designation. The Architectural Committee may, from time to time, by a majority of the members thereof, delegate any of its rights or responsibilities hereunder to one or more duly licensed architects or other qualified persons who shall have full authority to act on behalf of said Architectural Committee in all matters delegated.

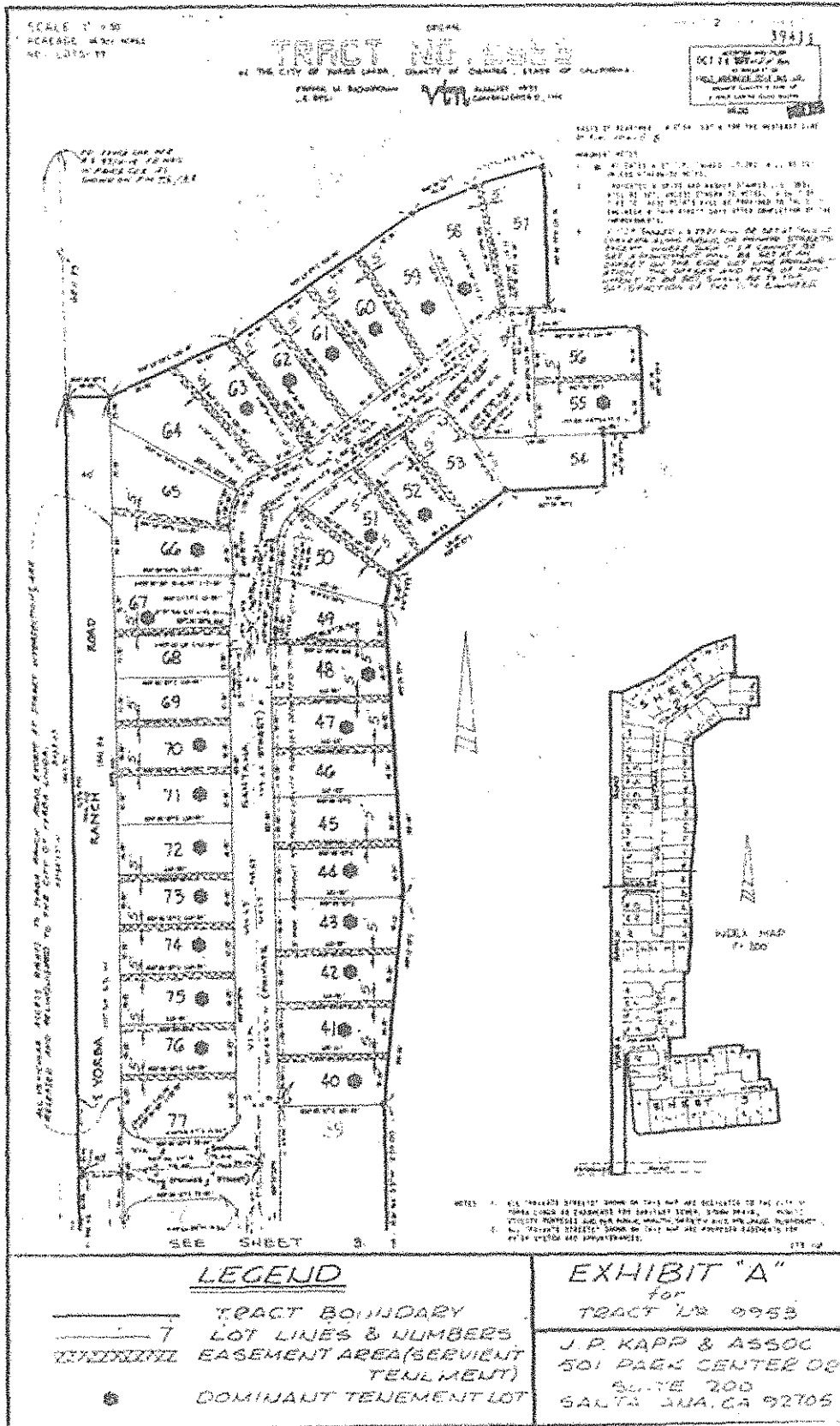
Section 9. Review Fee and Address. All plans and specifications required by Section 1 hereof shall be submitted in writing for approval together with a reasonable processing fee. The address of the Architectural Committee is 1641 Langley Avenue, Irvine, California, 92714, or such other place as may from time to time be designated by such Committee by a written instrument recorded in the Office of the County Recorder of Orange County. The last instrument so recorded shall be deemed the Architectural Committee's proper address. Such address shall be the place where the current rules and regulations, if any, of such Committee shall be kept.

Section 10. Inspection. Any member or agent of the Architectural Committee may, from time to time, at any reasonable hour or hours and upon reasonable notice, enter and inspect any property subject to the jurisdiction of the Architectural Committee as to its improvement or maintenance in compliance with the provisions hereof.



Areas shaded in Orange depict LANDSCAPED SLOPE CONTROLLED AREAS to be maintained by the Association.

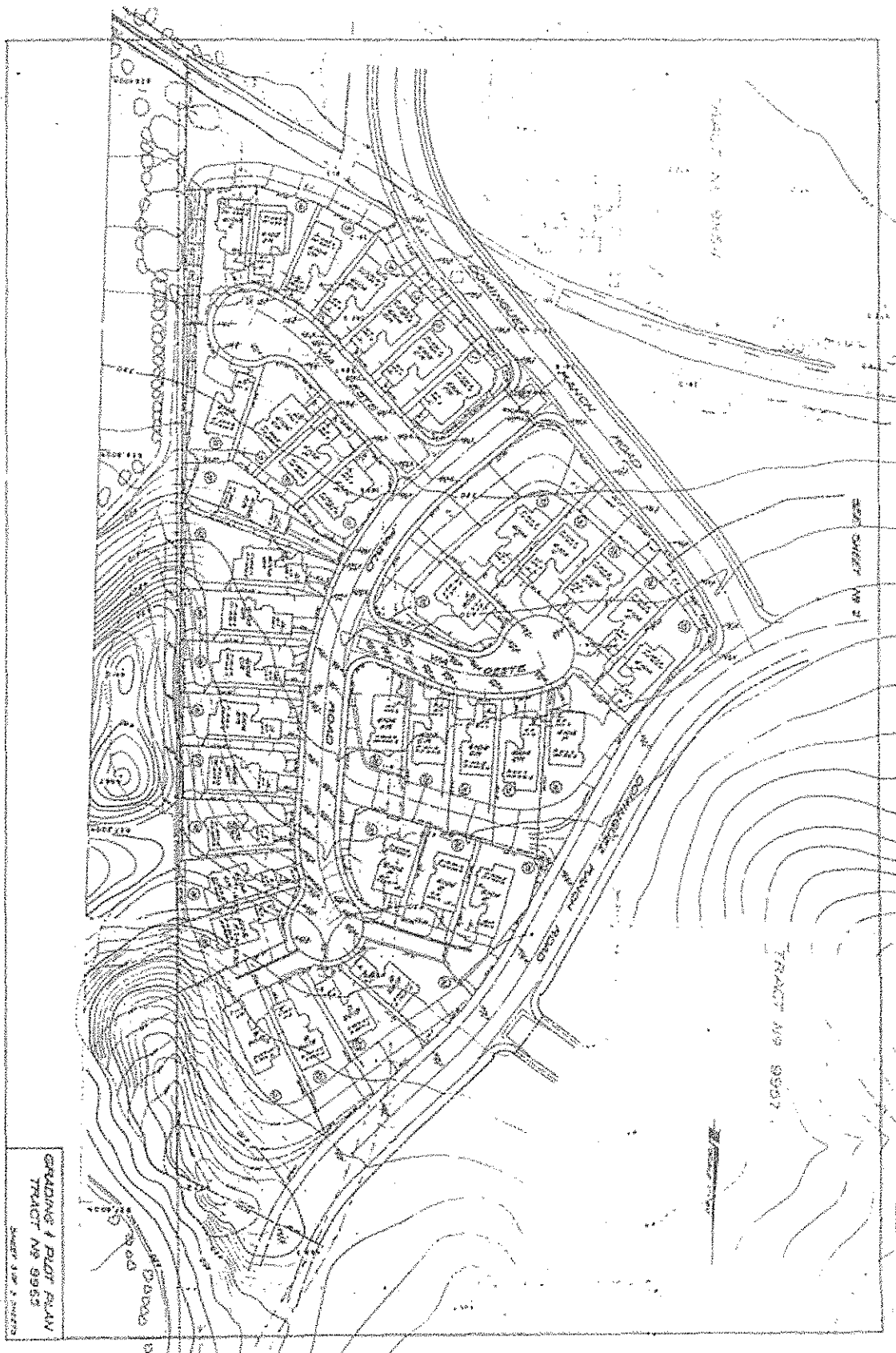




DESCRIPTION OF REAL PROPERTY TO BE ANNEXED

All the Real Property described as Tract No. 9955,
as per map recorded in Book 424, Pages 44 through
46, inclusive, of Miscellaneous Maps, Official Records
of Orange County.

EXHIBIT "B"



10 14 1979

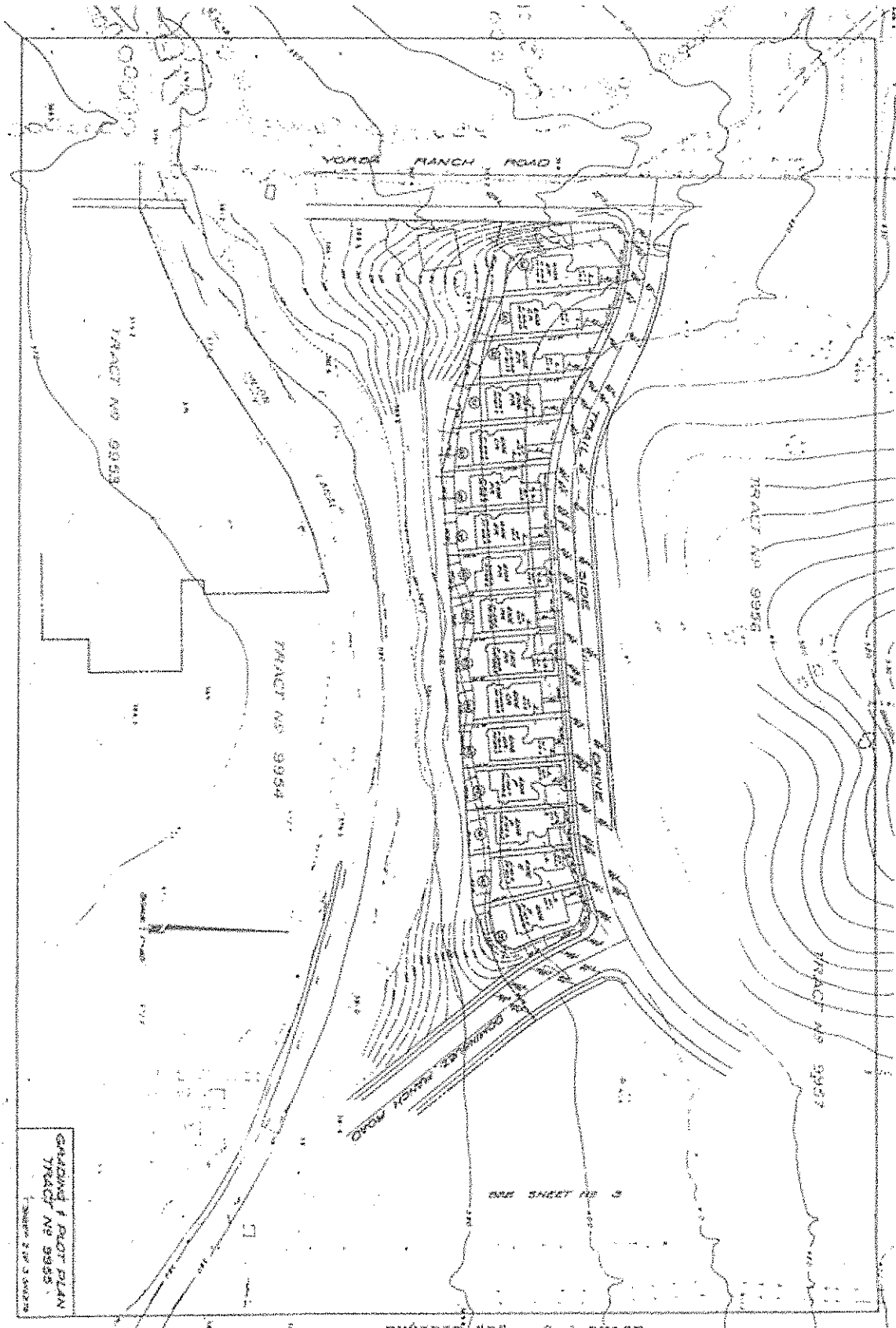


EXHIBIT "D" - 2nd PHASE
Areas shaded in Orange depict LANDSCAPED
SLOPE CONTROLLED AREAS to be maintained by
the Association

XIII

RIGHTS OF LENDERS

Notwithstanding any provisions to the contrary as may be provided elsewhere in this Declaration, Lenders shall have the following rights:

Section 1. Notice to Institutional Holders of Default.

Any Institutional Holder of any Mortgage on a lot shall be entitled to receive upon written request to the Association written notification from the Association of any default by the Owner (trustor) of such lot in the performance of such Owner's obligations under the Declaration or the Association's Articles or By-Laws which is not cured within thirty (30) days from the date of such default.

Section 2. Assessments on Foreclosure. Any Insti-

tutional Holder of any Mortgage who obtains title to a lot pursuant to the remedies provided in the Mortgage, or through foreclosure of the Mortgage shall take title to such lot free of any claims for unpaid assessments or charges against such lot which accrued prior to the acquisition of title to such lot by the Institutional Holder of the Mortgage.

Section 3. Right of First Refusal. Any Institu-

tional Holder of a Mortgage who obtains title to a lot pursuant to the remedies provided in the Mortgage or through foreclosure of the Mortgage, or deed (or assignment) in lieu of foreclosure shall be exempt from any right of first refusal which may now or in the future exist for the benefit of the Association.

Section 4. Required Consent of Owners. Unless at least

two-thirds (2/3rds) of all Owners, excluding the vote of Declarant (based on one vote for each lot owned), have given their prior written approval, the Association and the Owners shall not be entitled to:

(a) Change the method of determining the obligations, assessments (whether annual or special), dues or other charges which may be levied against the Owner of a lot;

(b) By act or omission seek to abandon, partition, release, subdivide, encumber, sell or transfer any property or any improvements which are owned, directly or indirectly, by the Association;

(c) By act or omission change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the architectural design of the dwellings situated on each lot or the upkeep of the Common Areas within the Properties;

(d) Use hazard insurance proceeds for losses to the Common Area property for other than the repair, replacement or reconstruction of such improvements;

(e) Fail to maintain fire and extended coverage on insurable Common Area improvements on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value (based on current replacement cost);

(f) Abandon or terminate the Association, except for abandonment, partition or termination as may be provided by law;

(g) Adopt any material amendment to this Declaration;

(h) The effectuation of any decision by the Association to terminate professional management and assume self-management of the Association and the Properties;

(i) Fail to maintain an adequate reserve fund for the replacement of equipment and facilities used for the Common Areas.

Section 5. Rights of Institutional Holders. All Institutional Holders of Mortgages on individual lots shall, upon written request to the Association, be entitled to:

- (a) Inspect the books and records of the Association during normal business hours;
- (b) Receive an annual audited financial statement of the Association within ninety (90) days following the end of any fiscal year of the Association;
- (c) Receive written notice of all meetings of the Owners of the Association and shall be entitled to designate a representative to attend all such meetings.

Section 6. Payment of Taxes and Insurance Premiums. Institutional Holders of Mortgages on lots within the Properties may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge or lien against any common property, if any, and may pay overdue premiums on hazard insurance policies or secure hazard insurance coverage upon the lapse of a policy for any commonly owned property and the mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

Section 7. Priority on Distribution of Proceeds. No Owner or any other party shall have priority over any rights of Institutional Holders of Mortgages upon individual lots pursuant to their Mortgages in the case of a distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of all or any portion of the commonly owned property, if any, and/or the individual lots and improvements thereon.

Section 8. Notice of Destruction or Taking. In the event that any lot or the improvements thereon or any commonly owned property, if any, or portions thereof, are substantially damaged or destroyed, or are made the subject of any condemnation

proceeding in eminent domain or are otherwise sought to be acquired by a condemning authority, the Association shall promptly notify all Institutional Holders of Mortgages affected by such destruction, taking or threatened action.

Section 9. Insurance. Notwithstanding any other provisions herein, the Association shall continuously maintain in effect such casualty, flood and liability insurance and a fidelity bond meeting the insurance and fidelity bond requirements for planned unit development projects established by the Federal Home Loan Mortgage Corporation, so long as it is a mortgagee or owner of a lot within the project, except to the extent such coverage is not available or has been waived in writing by the Federal Home Loan Mortgage Corporation.

Section 10. Mortgage Protection Clause. No breach of the covenants, conditions or restrictions herein contained, nor any lien created hereby, shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise.

Section 11. Conflicts. In the event of any conflicts between any of the provisions of this Article and any other provisions of the Declaration, the provisions of this Article shall control.

XIV

ENFORCEMENT OF BONDED OBLIGATIONS

In the event that the improvements to any commonly owned or maintained property within the Properties have not been completed prior to the issuance of a Final Subdivision Public Report covering such tract by the Department of Real Estate of the State of California, and the Association is obliged under a bond or other arrangement (hereinafter the "Bond") to secure performance of the commitment of Declarant to complete such improvements, the following provisions shall apply:

(a) The Board shall consider and vote on the question of action by the Association to enforce the obligations under the Bond with respect to any improvements for which a Notice of Completion has not been filed within sixty (60) days after the completion date specified for such improvement in the Planned Construction Statement appended to the Bond. If the Association has given an extension in writing for the completion of any common improvement, the Board shall consider and vote on the aforesaid question if a Notice of Completion has not been filed within thirty (30) days after the expiration of such extension.

(b) In the event that the Board determines not to initiate action to enforce the obligations under the Bond, or in the event the Board fails to consider and vote on such question as provided above, the Board shall call a special meeting of the Members for the purpose of voting to override such decision or such failure to act by the Board. Such meeting shall be called according to the provisions of the By-Laws dealing with meetings of the Members, but in any event such meeting shall be held not less than fifteen (15) days nor more than thirty (30) days after receipt by the Board of a petition for such meeting, signed by Members repre-

senting ten percent (10%) of the total voting power of the Association.

(c) The only Members entitled to vote at such meeting shall be the Owners other than Declarant. A vote at such meeting of a majority of the voting power of such Members, other than Declarant, to take action to enforce the obligations under the Bond shall be deemed to be the decision of the Association and the Board shall thereafter implement such decision by initiating and pursuing appropriate action in the name of the Association.

ANNEXATION

Section 1. Annexation With Consent. Additional lots and Common Area may be annexed to the Properties with the consent of at least two-thirds (2/3) majority of the voting power of the Association, excluding the voting power of the Declarant; or

Section 2. Annexation Without Consent. If, at any time within the third anniversary date of the original issuance of the most-recently-issued public report for a phase of the Properties, the Declarant should develop additional lands within the areas described in Exhibit "B" which is attached hereto and by this reference made a part hereof, such additional lands may be annexed to the Properties without the assent of the Class A members and be made subject to the Declaration and thereby become subject to the jurisdiction of the Association; provided, however, that the development of the additional lands described in this Section shall be in accordance with a general plan set forth in this Article. Detailed plans for the development of additional lands must be submitted to the California Department of Real Estate prior to such development of additional lands. If the California Department of Real Estate determines that such detailed plans are not in accordance with the general plan on file and such agency so advises the Association and the Declarant, the annexation of the additional lands must be in accordance with Section 1 immediately above. A supplementary Declaration of Covenants, Conditions and Restrictions as described hereinafter in Section 3 of this Article, covering the real property or portions thereof described in Exhibit "B" hereto, shall be executed and recorded by the Owner of such property to be annexed. The dwellings to be constructed on any lots to be

annexed pursuant to this Article without the consent of the Owners must be of comparable style, quality, size and cost and shall be so constructed so as to have similar styles, floor plans, size and quality of buildings as those buildings which are presently constructed within the Properties.

Section 3. Supplementary Declaration. The additions authorized under the foregoing section shall be made by filing of record a supplementary Declaration of Covenants, Conditions and Restrictions, or similar instrument, with respect to the additional property which shall extend the plan of this Declaration to such property. Such supplementary Declarations contemplated above may contain such complementary additions or modifications of the covenants, conditions and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added property as are not inconsistent with the plan of this Declaration. In no event, however, shall any such supplementary Declaration, merger or consolidation, revoke, modify or add to the covenants established by this Declaration within the existing property, except as hereinafter otherwise provided. The recordation of said supplementary Declaration shall constitute and effectuate the annexation of the said real property described therein, making said real property subject to this Declaration and subject to the functions, powers and jurisdiction of the RANCHO DOMINGUEZ PATIO HOMES COMMUNITY ASSOCIATION, and thereafter all of the Owners of lots in said real property shall be Members of the RANCHO DOMINGUEZ PATIO HOMES COMMUNITY ASSOCIATION, in accordance with the terms and provisions of this Declaration and such supplementary Declaration. Upon such annexation all Owners of lots within the Properties shall have an equal right to the use of all of the Common Areas within the Properties.

Nothing herein shall obligate Declarant to annex to the Properties all or any portion of the lots described in Exhibit "B" hereto and any decision to affect such annexation shall be in the sole discretion of Declarant.

GENERAL PROVISIONS

Section 1. Duration. The covenants, conditions, restrictions, easements, reservations, liens and charges of this Declaration shall run with and bind the property within the Properties and shall inure to the benefit of and be enforceable as provided herein by Declarant, Broadmoor, the Association, or the Owner, including the Declarant, of any lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, and are imposed upon the real property within the Properties as a servitude in favor of each and every parcel of land therein as a dominant tenement, for a term of sixty (60) years from the date this Declaration is recorded, after which time said covenants, conditions, restrictions, easements, reservations, liens and charges shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then Owners of the lots, has been recorded with the Orange County Recorder, agreeing to change said covenants, conditions and restrictions in whole or in part. In the event a lot is owned by more than one Owner, any one of the Co-Owners may sign such instrument in writing on the behalf of all Co-Owners.

Section 2. Amendment. Subject to the other provisions of this Declaration, this Declaration may be amended only by an instrument in writing signed by not less than seventy-five percent (75%) of each class of Members and Broadmoor. When the Class B membership becomes converted to Class A membership in accordance with the provisions of this Declaration, this Declaration may be amended, subject to the other provisions of this Declaration, only by an instrument in writing signed by not less than (i) seventy-five percent (75%) of the Members, and (ii) a majority of the Members other than the Declarant, and (iii)

Broadmoor. Any amendment must be properly recorded. In the event a lot is owned by more than one Owner, any one of the Co-Owners may sign such instrument in writing on behalf of all Co-Owners.

Section 3. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be in writing and shall be deemed to have been properly sent when delivered personally or mailed, postage prepaid, if to an Owner or Member, to the last known address of the person who appears as such a Member or Owner on the records of the Association at the time of such mailing. In the case of Co-Owners, any such notice may be delivered or sent to any one of the Co-Owners.

Section 4. Enforcement.

(a) The Association or the Owner of any lot, including the Declarant, or Broadmoor shall have the right to enforce by proceedings at law or in equity all covenants, conditions, restrictions, easements, reservations, liens and charges now or hereafter imposed by this Declaration, as amended and supplemented, the Articles and By-Laws, including, without limitation, the right to prosecute a proceeding at law or in equity against the person or persons who have violated or are attempting to violate any of these covenants, conditions, restrictions, easements, reservations, liens or charges to enjoin or prevent them from doing so, to cause said violation to be remedied and/or to recover damages for said violation.

(b) Should the Association fail to perform its duties of repair and maintenance of the Common Area or should any Owner fail to comply with the provisions hereof and should any such failure of the Association or an Owner continue for a period of thirty (30) days following written notice of such failure from the Declarant to the Association or from the Dec-

larant and/or the Association to the Owner, the Declarant and/or the Association, as the case may be, shall have the right, but not the duty, to perform all or a portion of such repair and maintenance and the Declarant and/or the Association shall have the right, but not the duty, to correct any such noncompliance, and the cost thereof shall be borne by the Association or any such Owner, respectively; provided, however, that in the event such costs are not paid to the Declarant or the Association, as the case may be, within thirty (30) days after the Declarant or the Association has furnished a statement therefor, the Declarant in the case of a failure by the Association, and Declarant and/or the Association in the case of a failure by an Owner, shall have the right, but not the duty, to levy a reimbursement assessment against each Owner on a pro rata basis to cover such costs of maintenance and repair or against any such Owner to cover the costs of correction, if any, of such noncompliance, as the case may be. The Declarant shall have the same remedies as the Association has pursuant to this Declaration to collect delinquent annual assessments. No one or more failures or refusals by the Declarant to accomplish such repair and maintenance work or by the Declarant and/or the Association to accomplish such compliance which the Association or an Owner shall have failed to perform shall be deemed a waiver of the right in the Declarant or the Association, as the case may be, to perform such work at a later time as to the same or different work or compliance.

(c) The result of every action or omission whereby any covenant, condition, restriction, easement, reservation, lien or charge herein contained is violated in whole or in part is hereby declared to be and to constitute a nuisance, and every remedy allowed by law or equity against an Owner,

either public or private, shall be applicable against every such result and may be exercised by the Association or any Owner, including the Declarant, or Broadmoor subject to these restrictions.

(d) In any legal or equitable proceeding for the enforcement or to restrain the violation of these covenants, conditions, restrictions, easements, reservations, liens or charges or any provisions hereof, the losing party or parties shall pay the attorneys' fees of the prevailing party or parties in such amount as may be fixed by the court in such proceedings. All remedies provided herein or at law or in equity shall be cumulative and not exclusive.

(e) Failure by the Declarant, the Association, Broadmoor, or by any Owner to enforce any covenant, condition, restriction, easement, reservation, lien or charge herein contained shall in no event be deemed a waiver of any breach or violation or a waiver of the right to do so thereafter.

(f) Nothing contained herein shall be deemed to require the Declarant or Broadmoor to enforce any covenant, condition, restriction, easement, reservation, lien, charge or provision hereof.

Section 5. Severability. Invalidation of any one or more of these covenants, conditions, restrictions, easements, reservations, liens or charges by judgment or court order shall not in any way affect any other provisions, which shall remain in full force and effect. Neither the Declarant nor Broadmoor makes any warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Declaration.

Section 6. Breach of Restrictions, Easements, Conditions, Covenants and Reservations. A breach of any of the restrictions, easements, conditions, covenants, reservations,

liens or charges herein contained shall not defeat or render invalid the lien of any deed of trust made in good faith and for value as to any lot in the Properties but said restrictions, easements, conditions, covenants, reservations, liens and charges herein contained shall not defeat or render invalid the lien of any deed of trust made in good faith and for value as to any lot in the Properties but said restrictions, easements, conditions, covenants, reservations, liens and charges shall be binding upon and effective against any Owner thereof whose title thereto is acquired by foreclosure, trustee's sale or otherwise.

Section 7. Headings. Section headings are inserted for convenience only and are not intended to be a part of this Declaration or in any way to define, limit or describe the scope or intent of the particular section to which they refer.

Section 8. Singular Includes Plural. Whenever the context of this Declaration requires same, the singular shall include the plural and the masculine shall include the feminine.

Section 9. Construction. The provisions of this Declaration shall be liberally construed to effectuate this Declaration's purpose of creating a uniform plan for the development of a residential community.

Section 10. Construction by Declarant. Nothing in this Declaration, except as provided to the contrary hereinbelow, shall limit the right of the Declarant to commence and complete construction of improvements to the Properties or to alter the foregoing or the lots or Common Area or to construct such additional improvements as the Declarant deems advisable prior to the completion and sale of all of the Properties. The Declarant may use any of the lots within the Properties owned

by it for model home sites and incidental parking and for any other purpose for which the Declarant may use the Common Area as provided in this Section. The Declarant shall have the right and an easement to enter upon, use and enjoy and designate and permit others (including, without limitation, Declarant's agents, employees, representatives, contractors and prospective purchasers) to enter upon, use and enjoy the Common Area for any purpose in connection with or incidental to (a) the construction, development, sale, lease or other transfer of property within or adjacent to the Properties (including, without limitation, the erection, construction and maintenance of displays, sales offices and incidental parking, exhibits, sign and other structures), (b) the management, operation or maintenance of the Properties and/or (c) the exercise of any rights or powers granted hereunder to the Declarant; provided, however, that the exercise of such right and easement shall not unreasonably interfere with the reasonable use and enjoyment of the Common Area by the Members. The Declarant reserves the right to alter its construction and development plans and designs as it deems appropriate. This Declaration shall not limit the right of the Declarant at any time prior to acquisition of title by a purchaser from the Declarant to establish on any lot additional licenses, reservations and rights-of-way to itself, to utility companies, or to other as may from time to time be reasonably necessary to the property development and disposal of the Properties. Notwithstanding the foregoing provisions none of the rights of the Declarant under this Section shall be exercised by Declarant without the prior written consent of Broadmoor.

Section 11. Nonliability of Officials. To the fullest extent permitted by law, neither the Board, any committee of the Association nor any member thereof shall be liable to

any Member or Owner or the Association for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, omission, error, negligence or the like made in good faith within which such Board, committee, or persons reasonably believed to be the scope of their duties.

Section 12. Obligation of Owners and Members. The terms and provisions set forth in this Declaration are binding upon all Owners of all lots, the Association and all Members. In addition, both the Member and the lot owned shall be subject to the terms and provisions of the Articles and By-Laws as the same may from time to time be amended. Each Member shall cause the Association to exercise all of the powers and privileges and perform all of the duties and obligations of the Association as set forth in this Declaration, the Articles and By-Laws.

Section 13. Leases of Lots. Any Owner who shall lease his lot to any person or entity shall be responsible for assuring compliance by any such person or entity with all of the covenants, conditions, restrictions, easements, reservations, liens and charges of this Declaration, as amended and supplemented. Any lease agreement between an Owner and a lessee must provide that the terms of the lease shall be subject in all respects to the provisions of this Declaration, the Articles and By-Laws, and that any failure by the lessee to comply with the terms of such documents shall be a default under the lease. All such leases shall be in writing.

Section 14. Mergers and Consolidations. Upon a merger or consolidation of the Association with another association as provided in the Articles, its properties, rights and obligations

may be transferred to the surviving or consolidated association or, alternatively, the properties, rights and obligations of another association may be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may, subject to the terms and provisions of this Declaration, administer the covenants, conditions, restrictions, easements, reservations, liens and charges established by this Declaration, as supplemented and amended, with respect to the Properties, together with the covenants, conditions, restrictions, easements, reservations, liens and charges established upon any other property, as one general plan and scheme or in such other plan of administration as the surviving or consolidated corporation deems reasonable.

Section 15. Assignment of Rights and/or Duties.

Any or all of the rights and/or duties, if any, of the Declarant herein may be assigned or delegated, respectively, to any other person or entity and upon any such assignment or delegation any such person or entity shall, to the extent of such assignment or delegation, have the same rights and/or duties as are given to and/or assumed by the Declarant herein, and, thereupon, the Declarant shall be relieved of the performance of any further duty, if any, hereunder.

IN WITNESS WHEREOF, the undersigned has hereunto set its hand and seal as of the day and year first above written.

WARMINGTON DEVELOPMENT, INC.,
a California corporation

By: Malcolm McCall

Its: Sen. Vice President

By: William S. Kink

Its: Secretary

Form 1002—(Corporation First American Title Company)

STATE OF CALIFORNIA

DEED OF

George

On 30 January 1979 before me, the undersigned, a Notary Public in and for

and there, personally appeared Michael H. McQuinn

known to me to be the Ex. Vice President, and William A. Guish

known to me to be the _____ Secretary of the corporation that executed the within instrument,

and known to me to be the persons who executed the within

instrument on behalf of the corporation therein named, and ac-

knowledgeed to me that each corporation executed the within

instrument pursuant to its by-laws or a resolution of its board of

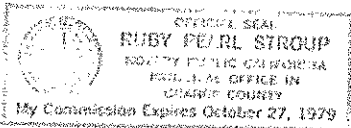
directors.

WITNESS my hand and official seal

Signature Ruby Pearl Stroup

Ruby Pearl Stroup

Name (Typed or Printed)



(This area for official notarial seal)